REMARKS

This is a full and timely response to the outstanding non-final Office Action mailed July 16, 2007 (Paper No. 20070711). Upon entry of this response, claims 3-5, 7-11, 16, 18, 62-64, 66-77, 79, and 82-112 are pending in the application. Applicants respectfully request reconsideration of all pending claims.

1. Claim Objections

The Office Action states that "[c]laim 112 is objected to because of the following informalities: in case of "the receiving a specification from the first device" is important to the invention, this limitation must be included in the claim language. Appropriate correction is required" (page 2, paragraph 3). Applicants appreciate the suggested claim amendment but respectfully submit that claim 112 is patentable in its current form for at least the reasons discussed below and therefore Applicants have elected not to amend claim 112.

The Office Action further states that "[c]laims 63, 87, 105, 112 disclose the first and second device without any specific detail. Examiner interprets as any network devices (i.e.: nodes, servers, routers, etc.)" (page 2, paragraph 4). Claims 63, 87, 105, and 112 recite "a first communication device" and "a second communication device". Applicants respectfully submit that a "communication device" is not limited to "nodes, servers, routers, etc." and other interpretations are also available.

2. Prior Response Arguments

The Office Action indicates that "Applicant's arguments, see pages 15-23, filed 7/10/07, with respect to the rejection(s) of claim(s) 3-5,7-11,16,18, 62-64,66-67,79,82-112 under Welter have been fully considered and are persuasive" (page 2, paragraph 2). Applicants respectfully submit that the Office Actions fails to address all of the arguments set forth in the response filed July 10, 2007 for claims 63, 87, 105, and 112. More specifically, the Office Action addresses the first argument raised for each independent claim, but fails to address the other arguments. For example, Applicants submit that the Office Action fails to address the second argument on page 17 of the

response filed July 10, 2007. The current Office Action indicates the same rejection as the Office Action mailed April 19, 2007. Accordingly, Applicants resubmit the arguments below and respectfully request that the rejection of claims 63, 87, 105, and 112 be withdrawn for at least the reason that the Office Action admits that Applicants' response filed July 10, 2007 persuasively established that these rejections should be withdrawn.

3. Rejection of Claims 3-11, 16, 18, 62-64, 66-77, 79, 82-112 under 35 U.S.C. §103

Claims 3-11, 16, 18, 62-64, 66-77, 79, 82-112 have been rejected under §103(e) as being allegedly unpatentable over *Welter et al.* (6,633,912) in view of *Nakabayashi et al.* (5,905,866). Applicants traverse the rejection of claims 3-11, 16, 18, 62-64, 66-77, 79, 82-112. It is well established at law that, for a proper rejection of a claim under 35 U.S.C. §103 as being obvious based upon a combination of references, the cited combination of references must disclose, teach, or suggest, either implicitly, all elements/features/steps of the claim at issue. *See, e.g., In re Dow Chemical*, 5 U.S.P.Q.2d 1529, 1531 (Fed. Cir. 1988); *In re Keller*, 208 U.S.P.Q.2d 871, 881 (C.C.P.A. 1981).

A. Claim 63

1) The proposed combination does not disclose, teach, or suggest "receiving, from the first communication device, a request to establish connectivity between the first and the second communication device, wherein the second communication device is located in a second network operated by a second provider different than the first provider"

The Office Action alleges that *Welter et al.* discloses this feature in Col. 5, lines 30-45. (Office Action, p. 3). Applicants respectfully disagree. The cited portion discloses that the test server and the browser can run on separate computers. However, it does not disclose ***"receiving***, from the first communication device***, a request to establish connectivity*** between the first and second communication device." *Welter et al.* does not disclose a first communication device which sends a request to establish connectivity between the first communication device and a second communication

device. Moreover, the addition of *Nakabayashi et al.* does not cure this deficiency. For at least the foregoing reason, the rejection of claim 63 should be withdrawn.

> 2) The proposed combination does not disclose, teach, or suggest "configuring a network device to establish a route between the first communication device and the second communication device using the identified statically configured second communication channel"

The Office Action alleges that *Welter et al.* discloses this feature in Col. 12, lines 48-64. (Office Action, p. 3). Applicants respectfully disagree. *Welter et al.* merely discloses "a step4 monitor editing page…includ[ing] a link list menu 352, a new URL text box 357". (Col. 12, lines 48-52). *Welter et al.* does not disclose ***"***configuring a network device to establish a route ***between the first communication device and the second communication device*** using the identified ***statically configured second communication channel***." *Welter et al.* does not disclose a first communication device which sends a request to establish connectivity to a second communication device at all. Furthermore, since the user defines the communication channel by manually adding steps to the link list, there is no ***statically configured*** second communication channel.

In addition, claim 63 recites "a computer implemented method…for providing connectivity", while *Welter et al.* discloses a user adding steps to the link list to define the communication channel. Moreover, the addition of *Nakabayashi et al.* does not cure this deficiency. Therefore, for at least the foregoing reasons, the rejection of claim 63 should be withdrawn.

> 3) The proposed combination does not disclose, teach, or suggest "receiving at least troubleshooting data and a test from the first communication device; and communicating the received troubleshooting data and the test to the second communication device."

The Office Action alleges that *Welter et al.* discloses this feature in Col. 2, lines 50-60. (Office Action, p. 4). Applicants respectfully disagree. *Welter et al.* merely discloses a "portal [] coupled to the test computers and to a portal database…operable to transmit and receive information from the test computers, and has an interface that allows a user to receive and input data into the portal". (Col. 2, lines 57-60). First, claim 63 specifies "troubleshooting data and a test" whereas *Welter et al.* teaches "data". Second, *Welter et al.* does not disclose ***"***receiving at least troubleshooting data and a

test ***from the first communication device***; and communicating the received troubleshooting data and the test ***to the second communication device.***" Even assuming for the sake of argument that the test computer is the second communication device, the troubleshooting data is not received from a first communication device because *Welter et al.* teaches this data is received from the user at the portal. Moreover, the addition of *Nakabayashi et al.* does not cure this deficiency. For at least the foregoing reasons, the rejection of claim 63 should be withdrawn.

B. Claim 87

1) The proposed combination does not disclose, teach, or suggest "receiving a specification from the first communication device over a first communication channel"

The Office Action alleges that *Welter et al.* discloses this feature in Col. 5, lines 12-63. (Office Action, p. 8). Applicants respectfully disagree. As the Office Action states (Office Action, p. 8, line 17) *Welter et al.* merely discloses retrieving connection information from a configuration file: "an operation 52 analyzes a test configuration file". (Col. 5, lines 56-57). *Welter et al.* does not disclose ***"***receiving a specification ***from the first communication device over a first communication channel***." Moreover, the addition of *Nakabayashi et al.* does not cure this deficiency. For at least the foregoing reasons, the rejection of claim 87 should be withdrawn.

2) The proposed combination does not disclose, teach, or suggest "receiving, from the first communication device, a request to establish connectivity between the first and the second communication device"

The Office Action alleges that *Welter et al.* discloses this feature in Col. 9, lines 42-49. (Office Action, p. 9). Applicants respectfully disagree. The cited portion discloses that the test server and the browser can run on separate computers. However, it does not disclose ***"receiving, from the first communication device,*** a request to establish connectivity between the first and second communication device." *Welter et al.* does not disclose a first communication device which sends a request to establish connectivity between the first communication device and a second communication device. Moreover, the addition of *Nakabayashi et al.* does not cure this deficiency. For at least the foregoing reasons, the rejection of claim 87 should be withdrawn.

> 3) The proposed combination does not disclose, teach, or suggest "instructing a network device to couple the first communication channel to the second communication channel to establish connectivity between the first communication device and the second communication device using the predefined second communication channel"

The Office Action alleges that *Welter et al.* discloses this feature in Col. 14, lines 41-48. (Office Action, p. 9). Applicants respectfully disagree. *Welter et al.* does not disclose "instructing a network device to couple the first communication channel to the second communication channel to establish connectivity between the first communication device and the second communication device". Instead, *Welter et al.* appears to disclose "[a] portal [which] may also be used to generate reports for the user…the user can make appropriate changes to specified web sites." Even assuming, for the sake of argument, that the "specified web sites" are second communication devices, the user cannot be a first communication device. Therefore, *Welter et al*. does not disclose a first communication device and a second communication device, and thus does not disclose a first communication channel and a second communication channel or a connection between them. Moreover, the addition of *Nakabayashi et al.* does not cure this deficiency. For at least the foregoing reasons, the rejection of claim 87 should be withdrawn..

> 4) The proposed combination does not disclose, teach, or suggest "receiving at least troubleshooting data and a test from the first communication device; and communicating the received troubleshooting data and the test to the second communication device."

The Office Action alleges that *Welter et al.* discloses this feature in Col. 2, lines 50-60, col. 11 line 66. (Office Action, p. 9). Applicants respectfully disagree. *Welter et al.* merely discloses a "portal [] coupled to the test computers and to a portal database…operable to transmit and receive information from the test computers, and has an interface that allows a user to receive and input data into the portal". (Col. 2, lines 57-60). *Welter et al.* does not disclose "receiving at least troubleshooting data and a test ***from the first communication device***; and communicating the received troubleshooting data and the test ***to the second communication device.***" Even assuming for the sake of argument that the test computer is the second communication device, the troubleshooting data is not received from a first communication device

because *Welter et al.* teaches this data is received from the user at the portal. Moreover, the addition of *Nakabayashi et al.* does not cure this deficiency. For at least the foregoing reasons, the rejection of claim 87 should be withdrawn.

C. Claim 105

> 1) The proposed combination does not disclose, teach, or suggest "receiving a specification from the first communication device over a first communication channel, the specification comprising at least one predefined identifier of the second communication device, the first communication device located in a first network operated by a first provider and the second communication device located in a second network operated by a second provider different than the first provider"

The Office Action alleges that *Welter et al.* discloses this feature in Col. 5, lines 12-63. (Office Action, p. 10). Applicants respectfully disagree. As the Office Action states (Office Action, p. 10, line 8) *Welter et al.* merely discloses retrieving connection information from a configuration file: "an operation 52 analyzes a test configuration file". (Col. 5, lines 56-57). *Welter et al.* does not disclose ***"receiving a specification from the first communication device over a first communication channel***." Moreover, the addition of *Nakabayashi et al.* does not cure this deficiency. For at least the foregoing reasons, the rejection of claim 105 should be withdrawn.

> 2) The proposed combination does not disclose, teach, or suggest "receiving, from the first communication device, a request to establish connectivity between the first and the second communication device"

The Office Action alleges that *Welter et al.* discloses this feature in Col. 9, lines 42-49. (Office Action, p. 10). Applicants respectfully disagree. The cited portion discloses that the test server and the browser can run on separate computers. However, it does not disclose ***"receiving, from the first communication device, a request to establish connectivity between the first and second communication device.***" *Welter et al.* does not disclose a first communication device which sends a request to establish connectivity between the first communication device and a second communication device. Moreover, the addition of *Nakabayashi et al.* does not cure this deficiency. For at least the foregoing reasons, the rejection of claim 105 should be withdrawn.

3) The proposed combination does not disclose, teach, or suggest "coupling the first communication channel to the second communication channel to establish connectivity between the first communication device and the second communication device"

The Office Action alleges that *Welter et al.* discloses this feature in Fig. 1. (Office Action, p. 10). Applicants respectfully disagree. First, Fig. 1 illustrates nothing more than a static configuration of network elements, whereas claim 105 recites a "coupling" step. Applicants note that another portion of *Welter et al.* appears to disclose "[a] portal [which] may also be used to generate reports for the user…the user can make appropriate changes to specified web sites." (Col. 14, lines 41-48). Even assuming, for the sake of argument, that the "specified web sites" are second communication devices, the user cannot be a first communication device. Therefore, *Welter et al*. does not disclose a first communication device and a second communication device, and thus does not disclose a first communication channel and a second communication channel or a connection between them. Moreover, the addition of *Nakabayashi et al.* does not cure this deficiency. For at least the foregoing reasons, the rejection of claim 105 should be withdrawn.

4) The proposed combination does not disclose, teach, or suggest "receiving at least troubleshooting data and a test from the first communication device; and communicating the received troubleshooting data and the test to the second communication device."

The Office Action alleges that *Welter et al.* discloses this feature in Col. 2, lines 50-60, col. 11 line 66. (Office Action, p. 10). Applicants respectfully disagree. *Welter et al.* merely discloses a "portal [] coupled to the test computers and to a portal database…operable to transmit and receive information from the test computers, and has an interface that allows a user to receive and input data into the portal". (Col. 2, lines 57-60). *Welter et al.* does not disclose ***"***receiving at least troubleshooting data and a test ***from the first communication device***; and communicating the received troubleshooting data and the test ***to the second communication device.***" Even assuming for the sake of argument that the test computer is the second communication device, the troubleshooting data is not received from a first communication device because *Welter et al.* teaches this data is received from the user at the portal.

Moreover, the addition of *Nakabayashi et al.* does not cure this deficiency. For at least the foregoing reasons, the rejection of claim 105 should be withdrawn.

D. Claim 112

> 1) The proposed combination does not disclose, teach, or suggest "receiving, over a second channel, an identifier of the managed communication device from the troubleshooting manager device"

The Office Action alleges that *Welter et al.* discloses this feature in Col. 6, line 64. (Office Action, p. 11). Applicants respectfully disagree. *Welter et al.* merely discloses "multiple monitors monitoring multiple web sites". (Col. 6, lines 63-64). *Welter et al.* does not disclose "receiving, over a second channel, an identifier of the managed communication device ***from the troubleshooting manager device***" because *Welter et al.* does not disclose a troubleshooting managing device to receive this data from. Moreover, the addition of *Nakabayashi et al.* does not cure this deficiency. For at least the foregoing reasons, the rejection of claim 112 should be withdrawn.

> 2) The proposed combination does not disclose, teach, or suggest "receiving, from the troubleshooting manager device, a request to establish connectivity between the troubleshooting manager device and the identified managed communication device"

The Office Action alleges that *Welter et al.* discloses this feature in Col. 9, lines 42-49. (Office Action, p. 11). Applicants respectfully disagree. *Welter et al.* does not disclose "receiving, ***from the troubleshooting manager device***, a request to establish connectivity" because *Welter et al.* does not disclose a troubleshooting managing device to receive this request from. For at least the foregoing reasons, the rejection of claim 112 should be withdrawn.

> 3) The proposed combination does not disclose, teach, or suggest "receiving at least troubleshooting data and a test from the troubleshooting manager device; and communicating the received troubleshooting data and the test to the managed communication device over the third channel"

The Office Action alleges that *Welter et al.* discloses this feature in Col. 2, lines 50-60, col. 11 line 66. (Office Action, p. 9). Applicants respectfully disagree. *Welter et al.* does not disclose "portal [] coupled to the test computers and to a portal

database…operable to transmit and receive information from the test computers, and has an interface that allows a user to receive and input data into the portal" because *Welter et al.* does not disclose a troubleshooting manager device to receive this request from. For at least the foregoing reasons, the rejection of claim 112 should be withdrawn.

4. Rejection of Claims 3-11, 16, 18, 62, 64, 66-77, 79, 82-86, 88-104, 106-111 under 35 U.S.C. §102

A. Claim 3

The Office Action alleges that *Welter et al.* discloses "configuring at least one switch such that a plurality of physical links associated with a plurality of data link connection identifiers are coupled together." However, *Welter et al.* FIG. 10B appears to disclose a website interface for adding URLs to a link list. Applicants respectfully submit that "a link list" is not the same as a "plurality of physical links", even though the phrases share the word "link." Therefore, Applicants respectfully request that, for at least this reason, the rejection of claim 3 be withdrawn.

B. Claim 4

The Office Action alleges that *Welter et al.* discloses "configuring a digital subscriber loop access multiplexer (DSLAM) connected to a plurality of second communication devices such that said second communication device associate with said specified identifier is connected by said step of establishing connectivity as [an] inherent feature of using [a] cable modem [for] remote connectivity." Applicants strongly disagree. DSLAMs are not required for the network shown in *Welter et al.* and their use is not inherent.

It is well established that "[t]o establish inherency, the extrinsic evidence must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill. Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not

sufficient." *In Re Anthony J. Robertson*, 169 F.3d 743, 745, 49 U.S.P.Q.2D (BNA) 1949, 1950-51 (Fed. Cir. 1999).

Applicants respectfully submit that the Office Action fails to adequately establish that the subject matter of claims 28, 36, and 58 is necessarily present. As the Office Action fails to provide any extrinsic evidence that makes clear that the missing descriptive matter is necessarily present, Applicants respectfully submit that inherency has not been established. In accordance with *In re Robertson*, Applicants traverse the inherency finding, and submit that claims 28, 36, and 58 are allowable over the cited art. Applicants respectfully submit that, for at least this reason, the rejection of claim 4 should be withdrawn.

C. Claim 64

The Office Action alleges that *Welter et al.* discloses "the predefined communication channel is a VC." However, *Welter et al.* FIG. 10C does not disclose a virtual circuit. Instead, Welter et al. FIG. 10C appears to merely disclose a linked list of URLs entered by the user. Applicants respectfully submit that this is different from the disclosed feature. Applicants have performed a text search of Welter and can find no mention whatsoever of a "virtual circuit" (VC). For at least this reason, the rejection of claim 64 should be withdrawn.

D. Claim 68

The Office Action alleges that *Welter et al.* discloses "configuring a digital subscriber loop access multiplexer (DSLAM) to couple the first communication channel to the second communication channel" by teaching "a user may provide monitoring config info to hundreds of servers" (*Welter et al.*, col. 14, lines 8-10). Since neither this passage nor any other passage in *Welter et al.* mentions a DSLAM, Applicants can only assume the Office Action is implying that DSLAM is the only way to support hundreds of servers. Applicants strongly disagree, and point out that banks of analog modems can be used to support hundreds of servers. Furthermore, even if this passage expressly or impledly taught a DSLAM, it does not teach "configuring" the DSLAM as recited in claim

68. Applicants respectfully submit that for at least these reasons, *Welter et al.* does not disclose the described feature and the rejection of claim 68 should be withdrawn.

E. Claims 3-11, 16, 18, 62, 64, 66-77, 79, 82-86, 88-104, and 106-111

Since claims 63, 87, 105, and 112 are allowable, Applicant respectfully submits that claims 3-11, 16, 18, 62, 64, 66-77, 79, 82-86, 88-104, 106-111 are allowable for at least the reason that each depends from an allowable claim. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q. 2d 1596, 1598 (Fed. Cir. 1988). Therefore, Applicants respectfully request that the rejection of claims 3-11, 16, 18, 62, 64, 66-77, 79, 82-86, 88-104, 106-111 be withdrawn.

CONCLUSION

Applicants respectfully request that all outstanding objections and rejections be withdrawn and that this application and presently pending claims 3-5, 7-11, 16, 18, 62-64, 66-77, 79, and 82-112 be allowed to issue. Any statements in the Office Action that are not explicitly addressed herein are not intended to be admitted. In addition, any and all findings of inherency are traversed as not having been shown to be necessarily present. Furthermore, any and all findings of well-known art and official notice, or statements interpreted similarly, should not be considered well known since the Office Action does not include specific factual findings predicated on sound technical and scientific reasoning to support such conclusions. If the Examiner has any questions or comments regarding Applicants' response, the Examiner is encouraged to telephone Applicants' undersigned counsel.

Respectfully submitted,

By: /Karen G. Hazzah/

Karen G. Hazzah,
Reg. No. 48,472

THOMAS, KAYDEN, HORSTEMEYER & RISLEY, L.L.P.
100 Galleria Parkway, NW
Suite 1750
Atlanta, Georgia 30339-5948
Tel: (770) 933-9500
Fax: (770) 951-0933